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Sent: 8/1/2018 9:44:16 AM
To: Beck, Nancy [Beck.Nancy@epa.gov]
Subject: Morning Energy, presented by ExxonMobil: Wheeler settles in for first congressional test — Omnibus nears the finish line — Trump makes OSTP pick

By Anthony Adragna | 08/01/2018 05:42 AM EDT

With help from Eric Wolff, Darius Dixon, Emily Holden and Alex Guillén

WHEELER BACK IN OLD STOMPING GROUNDS: Acting EPA chief Andrew Wheeler settles into his first congressional test in his new role this morning when he testifies before the same committee — the Senate Environment and Public Works Committee — where he spent years as a senior aide. Democrats told ME they'll pepper him with questions on EPA's proposed fuel economy standard rollback and reports he met with prior lobbying clients while deputy administrator, but to expect a more civil tone than under previous sessions with former Administrator Scott Pruitt. "It will be different," ranking member Tom Carper told ME. "There will be tough questions. We won't be totally thrilled, I'm sure, with some of the answers, but some of early the developments — he's only been there three weeks — have been encouraging."

Democrats said they'll focus on policy and made clear they're skeptical Wheeler will be any better for the environment than Pruitt. "It's clear that when it comes to policy issues, he represents a continuation of the previous Administrator Scott Pruitt's attack on protecting the health and the environment of the American people," Sen. Chris Van Hollen told ME. "You can expect every Scott Pruitt issue to be raised again to the new head of the EPA," Sen. Ed Markey added.

It's not just Democrats though: Wheeler better be ready to answer questions on the Renewable Fuel Standard, because the corn-staters on the panel are going to ask about it. Wheeler can expect to be pressed on EPA's expanded use of exemptions for small refiners and Trump's recent promise to expand sales of 15 percent ethanol fuel. But it's hard to imagine what the group can expect to get out of Wheeler. Pruitt assured all the Midwesterners he would "follow the law" but then proceeded to use every legal lever he could to cut compliance costs for refiners, infuriating corn-state lawmakers in the process.

Not everyone cheers the RFS: The committee has plenty of RFS opponents on it, including Wheeler's old boss, Sen. Jim Inhofe. Even RFS backers know to expect a kerfuffle: Nebraska Sen. Deb Fischer said she expects "a debate among Republicans on RFS issues" and Sen. Mike Rounds told ME "there could be [disagreement], but we all want to know where they stand."

If you go: The hearing gavel in at 10:30 a.m. in 406 Dirksen.

Before it kicks off, committee members will vote at 9:45 a.m. on four nominations: Peter Wright to be assistant EPA administrator for the Office of Land and Emergency Management; Charles McIntosh for assistant EPA administrator for the Office of International and Tribal Affairs; Mary Neumayr to lead the White House Council on Environmental Quality; and former Louisiana Rep. John Fleming to serve as assistant secretary of Commerce for economic development. More information here.

IT'S WEDNESDAY! I'm your host, Anthony Adragna, filling in for Kelsey who's off on a well-deserved break. Andeavor's Stephen Brown was first up to identify Great Smoky Mountains National Park as our country's most visited. For today: When was the last time an incumbent governor and senator from the same state but opposite parties lost reelection on the same day? Send your tips, energy gossip and comments to

ktamborrino@politico.com, or follow us on Twitter [@AnthonyAdragna](#), [@Morning_Energy](#) and [@POLITICOPro](#).

FINISHING UP: The Senate has a five-vote series today beginning at 11 a.m. (so Wheeler's going to be patient) that finishes off with the massive four-title minibuss H.R. 6147 (115) that's been occupying the chamber's floor for more than a week now. The four amendments getting votes ahead of final passage aren't related to the Interior and Environment title (they range from one related to election security to another blocking the District's health insurance mandate).

The vote comes after senators agreed to add nearly four dozen noncontroversial amendments to the package by voice vote late Tuesday. Several that caught ME's attention: Sen. Marco Rubio's amendment providing funds to study and combat algal blooms, as well as another from Sen. Bill Cassidy giving funds to certain biomass research efforts.

CLEARING THE AIR: EPA's annual air trends report showed a small decrease in sulfur dioxide concentrations between 2016 and 2017, with several other pollutants remaining level. EPA air chief Bill Wehrum attributed a 4 percent to 5 percent increase in particulate matter to intense wildfires out West. And officials said an apparent jump in lead concentrations was because of a change in what data EPA includes in its analysis, not because lead levels have increased dramatically. "The timeline and the number of monitors that were included in the analysis changed," said Liz Naess, leader of the Air Quality Analysis Group of EPA's Office of Air Quality Planning & Standards. "But we felt like increasing the number of monitors provided more robust trend line over that period."

That comes as Wehrum said it is "totally wrong" to think that limits on air pollution should always be as strict as possible, Pro's Alex Guillén reports.

TRUMP PICKS SCIENCE ADVISER: President Donald Trump formally selected Kelvin Droegemeier, an extreme weather expert from the University of Oklahoma, to head the Office of Science and Technology Policy on Tuesday. John Holdren, who served as President Barack Obama's science adviser, called Droegemeier a "very good pick" in Science. The selection is subject to Senate confirmation. He's on Twitter here.

Rush Holt, chief executive officer of the American Association for the Advancement of Science, applauded the selection: "Science and technology are embedded in almost every issue that the president deals with, and since 2016, we've urged the nomination of a respected scientist or engineer. Kelvin Droegemeier is such a scientist," he said in a statement.

CALL FOR BIPARTISAN ACTION ON PFAS: Michigan Reps. Fred Upton and Dan Kildee released a joint statement Tuesday calling for other states to follow Michigan's lead by testing all public water supplies for PFAS. The duo also said they would push federal legislation requiring EPA to set a national exposure standard for the toxic nonstick chemicals. "The EPA has failed to act with the proper urgency to set a standard and therefore we support bipartisan legislative action that would require them to do so," they said. "Every Michigan family deserves safe and clean drinking water. No exceptions."

KOCH NETWORK CALCULUS: Senate Majority Whip John Cornyn told reporters Tuesday the administration's trade policy may have played a role in the Koch network's decision not to provide help in several key Senate contests this year. "I do think this is a point of concern, I do," said Cornyn, who attended a weekend retreat in Colorado Springs, Colo. with the network. "My impression is they're focusing their efforts on things other than elections and more about changing the culture, which I commend them for."

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WATER RESOURCES UPDATE: Floor consideration of a broad water resources package remains stymied by one Republican — Sen. Richard Burr, who is pushing for a floor vote on his bid to reauthorize the Land and Water Conservation Fund. "We got 99 people ready to vote," Senate EPW Chairman John Barrasso told reporters. Remember Barrasso said last week the LWCF issue is "not germane" to the pending water resources bill, S. 2800 (115).

Never a coincidence: When ME questioned whether he asked Trump for an endorsement, which he got on Twitter on Tuesday afternoon, Barrasso didn't directly answer but said: "I talked to him this morning."

GOP LOOKING TO NARROW STATES' PIPELINE POWERS: Republican senators have introduced legislation designed to curb the authorities states have tapped to block interstate natural gas pipeline projects as well as a coal export terminal. New seven-page legislation from Barrasso, and fellow GOP Sens. Shelley Moore Capito, Inhofe and Steve Daines, would make several "clarifications" about what reasons state agencies are allowed to use in denying a project a needed water quality certificate. Although FERC has the ultimate responsibility for authorizing gas pipelines that cross state borders, project developers must also get a Clean Water Act Section 401 water quality certification from individual states. Echoing their arguments from last month, the lawmakers said that New York and Washington had "abused" the Clean Water Act.

WHERE'S PERRY? Energy Secretary Rick Perry's at the James A. FitzPatrick Nuclear Power Plant in Oswego, N.Y. this morning where he'll "receive a tour of the facility and participate in an energy roundtable discussion" with Rep. John Katko, industry executives and employees at the Exelon facility.

FOR YOUR RADAR: Udall holds a press conference with citizens from around the country to demand EPA carry out proposed bans on high-risk uses of trichloroethylene, or TCE. It kicks off at 11:30 a.m. in room 208 in the Capitol Visitor Center.

RAISING EYEBROWS IN ALASKA: Alaska's climate task force wants the oil-rich state to look into instituting a carbon tax, with revenues directed to a green bank and to offset some costs to consumers and companies. The idea is part of a draft action plan posted by the group, led by Lt. Gov. Byron Mallott, ahead of its meeting Thursday. It also suggests consideration of whether to endorse any national fee and dividend legislation. The task force said its plan is not a consensus document but is meant to offer a "suite of options" to inform agency efforts. Alaska's Republican-controlled Senate is unlikely to approve a carbon tax. Mallott, a Democrat, and Gov. Bill Walker, who was previously a Republican and is now independent, ran together on a unity ticket in 2014; they are up for reelection in a close race this year after Walker reduced annual oil checks to residents.

ANOTHER MEMO: In a memo to staff Tuesday, Wheeler reaffirmed a commitment to equal employment opportunity, saying the agency won't tolerate discrimination or harassment. "A professional, productive, diverse and inclusive workplace is essential to the EPA's mission to protect human health and the environment," Wheeler said.

QUICK CLICK: The National Park Service released a video Tuesday highlighting the national maintenance backlog. View it here.

QUICK HITS

— Oil just had its worst month in 2 years as Trump pressures Saudi Arabia to pump more. CNBC.

— Death Valley to post hottest month ever recorded on Earth, for the second July in a row. Washington Post.

— Perry: US to become net energy exporter within 18 months. The Hill.

- 3M Knew About the Dangers of PFOA and PFOS Decades Ago, Internal Documents Show. [The Intercept](#).
- Arch Coal Is the Incredible Shrinking Miner. [Bloomberg](#).
- Unsurvivable heatwaves could strike heart of China by end of century. [The Guardian](#).

HAPPENING TODAY

9:45 a.m. — The Senate Environment and Public Works Committee votes on the nominations of Mary Neumayr to run the White House Council on Environmental Quality, Peter Wright to run EPA's Office of Land and Emergency Management and William McIntosh to run EPA's Office of International and Tribal Affairs, Dirksen 406

10:30 a.m. — EPW holds a hearing with acting EPA Administrator Andrew Wheeler, Dirksen 406

11:30 a.m. — Sen. Tom Udall participates in a press conference urging EPA action on TCE, CVC 208

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<https://subscriber.politicopro.com/newsletters/morning-energy/2018/08/wheeler-settles-in-for-first-congressional-test-302729>

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House Democrats call for investigation of Wheeler meetings with former clients [Back](#)

By Emily Holden | 07/27/2018 05:46 PM EDT

House Democrats are asking the Office of Government Ethics to review acting EPA Administrator Andrew Wheeler's meetings with companies that employed him as a lobbyist.

Rep. [Don Beyer](#) (D-Va.) and several colleagues sent a letter to the independent agency today following reporting from E&E News that Wheeler met with at least three former clients in recent months as deputy administrator. They pointed to previous Administrator Scott Pruitt's resignation "under a cloud of ethical controversy" among the reasons for their concern.

"That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully scrutinized so that he is held to the highest ethical standard," wrote Beyer and Reps. [Raja Krishnamoorthi](#) (D-Ill.), [Pramila Jayapal](#) (D-Wash.), and [Jamie Raskin](#) (D-Md.).

EPA ethics reviews essentially operate on the honor system to ensure Wheeler is abiding by the Trump administration's pledge to avoid dealing with companies for whom he lobbied within the previous two years.

"We rely on the disclosures of an individual," ethics official Justina Fugh told POLITICO.

But public forms list Wheeler as a lobbyist for former clients less than two years before he was sworn in as deputy administrator on April 20. For example, Wheeler's former firm, Faegre Baker Daniels, did not disclose that it stopped lobbying for Darling Ingredients until May 31, 2016.

Fugh said Darling was not on a list Wheeler had submitted of lobbying clients in the prior two years. She said he also can meet with past clients that are subject to the pledge in certain group settings.

WHAT'S NEXT: The Democrats asked OGE to determine whether Wheeler had violated his pledge and to clarify its terms.

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EPA air chief: 'Totally wrong' to say strict rules always best [Back](#)

By Alex Guillén | 07/31/2018 03:27 PM EDT

EPA air chief Bill Wehrum says it is "totally wrong" to think that limits on air pollution should always be as strict as possible.

Wehrum, a lawyer who represented numerous industry groups before joining the agency, defended the Trump administration's business-friendly approach to regulation today on a conference call with reporters.

"Some people like to believe we should have the most stringent program on the books that we possibly can, and prior administrations have tried to do that. But I think that's totally wrong," Wehrum said. "Because that does not produce the best environmental outcome by having the strictest regulation, because those rules discourage people from doing really commonsense and worthwhile environmentally protective projects like energy efficiency projects."

He pointed specifically to EPA's New Source Review program, which requires power plants, refineries and other major emitters to go through a permitting process for many projects.

Former Administrator Scott Pruitt issued [several memos](#) easing NSR requirements, arguing in part that if companies can carry out certain projects without concern about triggering a complicated NSR review, they would be more willing to install efficiency upgrades and carry out other projects that could reduce pollution.

"By adjusting the program to hit a sweet spot where you control the emissions that need to be controlled, but you don't over-regulate to the degree you discourage beneficial behavior, then you're producing a much better overall result," Wehrum said.

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Koch network snubs key GOP Senate candidate [Back](#)

COLORADO SPRINGS, Colo. — The powerful Koch political network won't help the Republican nominee in a crucial Senate race less than 100 days before the midterm elections, saying Rep. Kevin Cramer (R-N.D.) doesn't do enough to further the network's policy issues to warrant its help.

And as the Koch network pushes Republicans not to take its support for granted, the group has quietly taken other steps to withhold its support from Senate candidates it sees as out of line with its views, despite the party's push to maintain or expand its majority this fall.

Cramer was the first Republican Senate candidate to be publicly jettisoned by the powerful Koch network this cycle. But during a private briefing over the weekend, donors were given a handout that indicated the network is also currently not supporting Senate candidates in two other key states — Indiana and Nevada — according to a photo of the document obtained by POLITICO.

Cramer is challenging Sen. Heidi Heitkamp (D-N.D.) in a must-win contest that could decide the balance of power in the Senate during the next Congress. In pushing him aside, Koch officials were clear to the donors that they are sending a message: Republicans in Congress should not take their support for granted.

Standing in front of a 20-foot-high photo of Cramer projected on a screen, Americans for Prosperity President Tim Phillips told hundreds of top conservative donors that Cramer is "inconsistent" on a range of other issues that are key to the Koch network, such as reducing government spending and supporting free trade.

"We can't support him at this time. And to be clear, we've met with his team, explained this, and lobbied him on this to change their ways," Phillips said.

"There are risks involved any time you take a stand," said Emily Seidel, CEO of Americans for Prosperity. "Why would Cramer or any other Republican feel like they need to listen to this network if they know we'll support them anyway?"

Not everyone here at the Koch network's biannual confab agrees: Dan K. Eberhart, a donor to the Koch network and fundarising vice chairman for Cramer's campaign, said that "Kevin Cramer is an excellent public servant who looks out for North Dakota."

"This proves he isn't bought," Eberhart added.

Cramer's campaign shrugged off the snub. "As I have always said, I work for the people of North Dakota and will always vote with them in mind," Cramer said in a statement. "My voting record may not be exactly what every national organization wants, but it is exactly what the majority of North Dakotans expect."

The Koch network has passed over supporting some moderate Republican candidates in the past. During the 2016 elections, for example, then-Sen. Kelly Ayotte (R-N.H.) did not receive support from the Koch network during her reelection bid. (Ayotte was narrowly defeated that November by Democrat Maggie Hassan.)

But this year, Cramer is not the only Republican candidate the Koch network is considering leaving behind. The network is currently only active in four Senate races, a network official said Monday: Wisconsin, Missouri, Tennessee and Florida.

And during the weekend retreat held in Colorado Springs, donors briefed on the network's plans were given a handout on candidates the network is supporting that omitted three Republican senate candidates in particular from its list: Cramer, Indiana Senate nominee Mike Braun and incumbent Sen. Dean Heller (R-Nev.).

Braun, a businessman, is challenging Indiana Sen. Joe Donnelly — an incumbent the Koch network originally announced in January as one of its top targets for the midterm elections. But the Koch network is not currently doing any door-to-door work or airing television ads in Indiana at all, an unusual pull-back.

In Nevada, the Koch network is helping state Attorney General Adam Laxalt in his gubernatorial bid — but not Heller, who was the subject of criticism from Phillips about his stance on health care and a vote in favor of a spending bill opposed by the Koch network in the Las Vegas Review-Journal in April. Heller is among the most moderate Republicans in the Senate and one of the most endangered senators from either party running for reelection.

In such races, the Koch network can offer its favored candidates not just millions of dollars in television advertising — but also paid staff and volunteers who knock doors and work year-round to identify swing voters and turn them out for elections.

At this weekend's summit, Seidel told the donors about a Republican senator who told his colleagues to not "worry about the Kochs" during a caucus meeting as the senators debated legislation. "By 'Kochs,' he was talking about all of you," Seidel said. "We can't just keep falling into the trap of doing what we need to do to get through November."

Phillips did hint that the door might be open for Cramer, if he were willing to change his policy platform, however: "Give Kevin Cramer a call — urge him to step up and lead."

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Burr vows to keep fighting for LWCF reauthorization [Back](#)

By Anthony Adragna | 07/26/2018 01:11 PM EDT

Sen. Richard Burr (R-N.C.) says he will keep up his push for a vote to permanently reauthorize the Land and Water Conservation Fund, as appropriators try to keep him from disrupting their work.

"I'm probably seeking a vote on LWCF on anything that leaves the United States Senate until I get an up or down vote," he told POLITICO Thursday. "I'm only here to legislate good legislation. LWCF fits that bill."

Burr and Sen. Cory Gardner (R-Colo.) were prevented from offering an amendment to the pending minibusspending bill, H.R. 6147 (115), Thursday morning. Sen. Lisa Murkowski (R-Alaska), who was managing the Interior-Environment portion of the bill, said she had to "reluctantly" block the amendment because it is not germane to the bill.

A vote on the spending bill is not expected before next week. Senate Appropriations Chairman Richard Shelby (R-Ala.) said he hoped Burr's objections would not prompt further delays, and he urged Senate leadership to schedule an LWCF vote.

"We all support that legislation, but we just think it's not proper" on this bill, Shelby told POLITICO. "There's got to be a way with that much support for that bill to bring it up and pass it fast."

Gardner said he and Burr are open to other options.

"We're willing to find the right vehicle," Gardner said. "We're willing to find the right moment. And so, the only way we're going to discover when that is is if we try at every turn."

Next in the Senate's queue is a water resources bill that also could provide a vehicle for an LWCF amendment. Leaders have been working toward an agreement on the package, [S. 2800 \(115\)](#), in hopes of enabling its consideration before the Senate takes a one-week pause the week of Aug 6. A spokesman for the Senate Environment and Public Works Committee did not respond to request for comment.

Burr's move to secure an LWCF vote is reminiscent of a similar effort in 2015 where Burr [held up](#) Senate consideration of a broad overhaul of the nation's primary chemicals law in hopes of securing a vote on LWCF. The fund, which ultimately got a three-year extension in 2015, is due to expire at the end of Sept. 30.

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Barrasso: LWCF 'not germane' to water resources bill [Back](#)

By Anthony Adragna | 07/26/2018 04:31 PM EDT

Sen. [John Barrasso](#) says he does not want to see his water infrastructure bill used as a vehicle to permanently reauthorize the Land and Water Conservation Fund, setting up a possible intra-party clash that may complicate both efforts.

Authorization for the popular program expires Sept. 30, and Republicans led by Sens. [Richard Burr](#) and [Cory Gardner](#) say they will pursue [every possible opportunity](#) to secure a vote to make it permanent. They were blocked earlier today from offering the amendment to a pending appropriations bill, and now Barrasso seems set to deny them another opportunity.

Burr's amendment is also "not germane" to the water resources bill, [S. 2800 \(115\)](#), Barrasso told POLITICO this afternoon. The Environment and Public Works chairman had hoped to get the infrastructure bill to the floor as soon as next week, but it was not on the schedule as of Friday afternoon.

"I am continuing to work with Leader [\[Mitch\] McConnell](#) on timing for floor consideration of the water infrastructure bill," he said in a statement.

The LWCF uses revenues from offshore oil and gas development to establish national parks and other public spaces.

Burr previously held a chemicals bill over his push for permanent LWCF reauthorization in 2015 before ultimately securing a three-year extension for the program as part a year-end spending bill [H.R. 2029 \(114\)](#). At the time, Barrasso resisted permanent reauthorization and sought major [reforms](#) to the program.

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Republicans look to squash state opposition to new pipelines [Back](#)

By Darius Dixon | 07/12/2018 05:44 PM EDT

Senate Republicans on Thursday accused states of misusing their power over water permits to block new natural gas pipelines, a trend the lawmakers said could force them to take action to aid the approval process.

The complaints aired by Sens. [Lisa Murkowski](#) (Alaska), [John Barrasso](#) (Wyo.) and [Steve Daines](#) (Mont.) echo the sharp words from Energy Secretary Rick Perry, who said last month that New York state officials were putting national security at risk by preventing a new pipeline from being built.

"States have abused the authority to block projects for political reasons, not really having anything to do with water quality at all," said Barrasso, chairman of the Senate Environment and Public Works Committee, at an Energy and Natural Resources hearing. He suggested that states' resistance could merit new legislation to curb their power.

Murkowski, who chairs the energy committee, and Daines agreed, saying the state hurdles were dampening energy industry growth.

"We've seen, repeatedly, the abuse of Section 401 of the Clean Water Act to stop sensible projects like the Millennium Bulk Terminal and natural gas pipelines, and Congress needs to take action on this," Daines said. Millennium Bulk is an export terminal project proposed for Longview, Wash., that Daines had hoped would become a conduit to ship Montana coal to Asian markets, but the state denied the project's 401 permit in September.

Pipeline advocates like Curtis Moffatt, an executive for Kinder Morgan, pressed the panel for action and suggested a menu of options, including calling on EPA to support their cause.

Although FERC has the ultimate responsibility for authorizing gas pipelines that cross state borders, project developers must also get a Clean Water Act Section 401 water quality certification from individual states.

If a state doesn't rule on a water permit request within a year, its right to issue the certification gets waived. That deadline is designed to prevent unnecessary project delays. Last year, FERC overruled New York's objection to Millennium Pipeline Co.'s Valley Lateral Project because the regulators argued that the state had taken too long.

But the energy industry was rattled by New York's decision in 2016, when the state Department of Environmental Conservation rejected a permit within the 12-month timeline. That rejection was upheld in circuit court and the Supreme Court declined to take it up on appeal.

Former FERC Chairman Joe Kelliher, now an executive at NextEra Energy, told lawmakers that writing new legislation to curb state power may be redundant with the rules already set out in the CWA. The issue, he said, is that state officials have gotten more creative in their efforts to stop fossil fuel projects.

"It would seem unnecessary to [have legislation] say, 'And they shouldn't include conditions that are completely divorced from water quality,'" he said at the hearing. Instead, lawmakers could urge the EPA to issue new guidance to the states to narrow the scope of their 401 certificate reviews.

Kelliher also suggested that state permit denials could be changed to incorporate an appeals process. That could address some industry concerns, but it would probably require Congress to change the Clean Water Act, a highly unlikely task.

Murkowski appeared open to any move to solve the problem that didn't require writing and passing new legislation.

"If you're looking for something to move the needle right now, legislation is probably your slowest alternative," she told reporters after Thursday's hearing. She said Thursday's hearing could be followed by meetings with or a letter to EPA pressing the agency to issue the type of guidance Kelliher suggested.

The pipeline rejections have angered DOE's Perry, who has suggested the federal government should consider curbing states' power over the energy infrastructure approvals.

Perry took several swipes at the Empire State's "obstructionist policies" during the World Gas Conference in Washington last month, warning of a "real reckoning" for politicians who blocked pipelines. However, legal experts involved with active pipeline applications and projects say there's no "legal hook" for DOE to intervene or override a state's position on permits.

But Perry's sentiment is shared by FERC chief of staff Anthony Pugliese who, earlier this week, told conservative news outlet Breitbart that Democratic politicians were "putting politics above the best interests of not only of consumers in their states but also national security" by blocking pipelines "for purely political reasons."

Although Pugliese isn't a voting member of the commission, one former FERC official worried that his comments would put the agency back in the sights of climate protesters who had routinely interrupted FERC meetings in recent years.

"Some of the active protest around the commission had died down a little bit, and I think it's going to ramp right back up," the former official said.

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